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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,860	10/11/2000	Flavio Borgna	194112US6PCT	5550

22850 7590 02/04/2003

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/600,860

Applicant(s)

BORGNA

Examiner
James O. Hansen

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3637



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 6, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-43, 45, and 49-54 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-43, 45, and 49-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 11, 2000 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 6, 2002 has been entered. ✓

Information Disclosure Statement

1. The information disclosure statement filed January 16, 2001 was made of record and placed in the application file; however, upon further review, the signed form PTO-1449 is not present in the application. The examiner requests a copy of this form [paper No. 7] to be included in response to this office action. Applicant's assistance is appreciated. ✓

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "refrigerator" [claims 51-54] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that applicant's invention was previously directed solely to a "shelf". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. ✓

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Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The application as originally filed was directed towards a "shelf". The originally filed specification states "a shelf particularly suited to use in chiller cabinets or refrigerators". As such, the specification does not expound on a "refrigerator comprising a shelf" as now being claimed, nor do the drawings depict such a limitation. Appropriate correction is required. ✓

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 29-31, 33/29-31, 34/30-31, 35/30-31, 36/29-31, 37/29-31, 38/29-31, 40/29-31, 41/29-31, 42/29-31, 43/29-31, 45/29-31 & 51-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Bickford [U.S. Patent No. 4,117,614]. Bickford (figures 1-7) teaches of a "shelf" (see fig. 2) that is capable of supporting items in a refrigerator, the shelf comprising: at least one support panel (13) inherently formed of at least one sheet of glass or plastic [the panel is defined as being transparent - also note the cross-hatching as depicted in figs. 3-4], the panel having a

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plurality of corners and a face (upper surface of 13 as depicted in fig. 2) configured to support items; and a plurality of cornerpieces/coverpieces (11, 12) each positioned to cover one of the plurality of corners of the support panel and a part of one side of the panel, wherein the plurality of cornerpieces/coverpieces cover the entire periphery of the support panel when assembled and at least one of the plurality of coverpieces is adapted to slide in another one of the plurality of coverpieces so as to form a telescopic set of coverpieces. As to claim 33, the plurality of cornerpieces/coverpieces comprise plastic as evident in the cross-hatching [depicted in fig. 3 for example]. As to claim 40, at least one of the plurality of cornerpieces/coverpieces includes at least an assembling means (56 for example) that is capable of assembling with an item of furniture. As to claim 41, at least one of the plurality of cornerpieces/coverpieces includes at least one stiffening fin (32 for example). As to claim 42, at least one of the plurality of cornerpieces/coverpieces includes at least one rim (34 for example) configured to prevent liquids from running off the shelf (as depicted in figs. 2-3). As to claim 43, at least one of the plurality of cornerpieces/coverpieces includes at least one backrest (31 for example). As to claim 45, at least one of the plurality of cornerpieces/coverpieces includes an attaching means (31 for example) capable of attaching at least one additional element.

6. Claims 29-32, 33/29-32, 34/30-32, 35/30-32, 36/29-32, 37/29-32, 38/29-32, 40/29-32, 41/29-32, 42/29-32, 43/29-32, 45/29-32 & 49-54 are rejected under 35 U.S.C. 102(b) as being anticipated by European publication 856,712 [EP'712]. EP'712 (figures 1-7) teaches of a shelf (1) used in a refrigerator [see disclosure], the shelf comprising: at least one support panel (2)

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formed of at least one sheet of glass, the panel having a plurality of corners and a face (upper surface of 2 as depicted in fig. 5) configured to support items; and a plurality of cornerpieces/coverpieces (5 & 6, 13 & 7, 9 & 11 and 10 & 12 - it is viewed that members 5 & 6 for example, may constitute a cornerpiece/coverpiece as presently defined) each positioned to cover one of the plurality of corners of the support panel and a part of one side of the panel, wherein the plurality of cornerpieces/coverpieces cover the entire periphery of the support panel when assembled and at least one of the plurality of coverpieces is adapted to slide in another one of the plurality of coverpieces so as to form a telescopic set of coverpieces. As to claim 32, the support panel including at least one groove (14) for mating with an internal relief (15) provided on at least one of the plurality of coverpieces. As to claim 33, the plurality of cornerpieces/coverpieces comprise plastic as evident in the disclosure [EP'712 states that the prior art employs a plastic frame, while the same frame can be produced as a modular arrangement with lower manufacturing costs. As to claim 40, at least one of the plurality of cornerpieces/coverpieces includes at least an assembling means (20 for example) that is capable of assembling with an item of furniture. As to claim 41, at least one of the plurality of cornerpieces/coverpieces includes at least one stiffening fin (21 for example). As to claim 42, at least one of the plurality of cornerpieces/coverpieces includes at least one rim (viewed as the edge protruding above the support panel when a coverpiece is attached) configured to prevent liquids from running off the shelf. As to claim 43, at least one of the plurality of cornerpiece/coverpieces includes at least one backrest (22 for example). As to claim 45, at least one of the plurality of

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cornerpieces/coverpieces includes an attaching means (22 for example) capable of attaching at least one additional element.

Response to Arguments

7. Applicant's arguments filed December 6, 2002 have been fully considered but they are not persuasive. In response to applicant's argument that Bickford 'does not teach a shelf capable of supporting foodstuffs in a refrigerator', a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. As such, a comparison of the structural members being claimed and those being referenced as disclosed above, merits the examiner's charge that Bickford could be utilized to support items within an enclosure. Bickford is still deemed to address every limitation as presently claimed and as such, could be utilized within a refrigerator as a shelf.

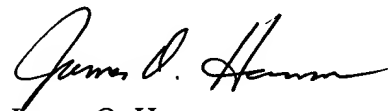
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hamamoto et al., describes a support panel with circumscribing frame members.

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Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 308-2168. **Fax numbers** for Official Papers are as follows:
(703) 305-3597 & (703) 305-7687.

Any inquiry concerning this communication from the examiner should be directed to James O. Hansen whose telephone number is (703) 305-7414. Unofficial Papers can be faxed to the examiner directly via (703) 746-3659 or to the unit fax at (703) 308-3691. Examiner Hansen can normally be reached Monday to Friday from 9:00 A.M. to 5:00 P.M. Eastern Time Zone.



James O. Hansen
Primary Examiner
Technology Center 3600

JOH
January 30, 2003